IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1281 OF 2004.

Gulaba Ganpat Nikalaje. ... Applicant.
Versus.
State of Maharashtra. ... Respondent.

Ms.Sunita Sharma, Advocate (appointed) for the Applicant.

Shri R.Y.Mirza, A.P.p. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 14th July, 2005.

P.C.:

1. This application is for reducing the fine amount. Heard the learned Counsel for the Applicant and the learned A.P.P. The learned Counsel for the Applicant submitted that leniency may be shown to the Applicant as there is no earning member in the family. Reliance is placed on the Apex Court's decision in (2002) 7 S.C.C. page 604 (Sattan Sahani v/s. State of Bihar & others).

The learned A.P.P. has opposed the Application.

2. In the present case conviction of the Applicant is under section 307 of the Indian Penal Code. Reliance placed on the Apex Court's decision is misplaced. The Apex Court was dealing with a case wherein the original conviction against the Applicant was under section 307 IPC and in Appeal High Court had held that conviction ought to have been under section 326 of the IPC and that

is the reason the Apex Court ordered release of the Appellant on the sentence already undergone.

3. Considering the fact that the offence established is under section 307 of the IPC, no case is made out for reduction of fine. Application is rejected.

Judge.